

REMARKS/ARGUMENTS

Claims 1–21 have been examined. Claims 1–21 stand rejected under 35 U.S.C. § 101 as directed to nonstatutory subject matter and independently stand rejected under 35 U.S.C. § 103(a) as unpatentable over US Patent No. 6,098,052 (“Kosiba”) in view of “Power Collecting” (“Piumelli”).

The claims have been amended in a number of respects to better define aspects of the invention, and examination of the claims as amended is respectfully requested. No new matter has been added by such amendments. Specific limitations are supported throughout the application, although attention is drawn particularly to Fig. 1 and the following textual passages: page 7, lines 1–11; page 7, lines 12–30; page 7, line 31, through page 8, line 11; page 8, lines 19–26; page 9, lines 22–28; page 10, lines 11–29; and page 11, line 28, through page 12, line 7. In the interest of advancing prosecution of the application, the following comments are offered.

First, it is respectfully believed that the § 101 rejections are moot in light of the amendments to the claims to recite structure that grounds the claims in the technological arts and to recite methods that produce useful, concrete, and tangible results. For instance, the method recited in Claim 1 is useful in coordinating acceptance of a payment from a consumer, and produces a concrete and tangible result in the initiation of an electronic funds transfer.

Second, it is noted that the cited art relates to traditional collection methods in which an entity that is owed funds seeks their collection on its own or sells rights to the debt to a different entity who then stands in the shoes of the original creditor. The invention as now claimed uses neither of these traditional collection methods. Instead, the financial relationship that exists between a consumer and a lender is maintained and a payment service provider acts to collect cash payments from the consumer. The claims specifically recite that the payment service provider is distinct from the lender; the nature of the financial relationship is embodied in the claims by the requirements that the promise-to-pay record be provided from the lender

system to the payment service provider system and that the payment service provider system initiate an electronic transfer of at least a portion of the paid amount to the control of the lender.

The resulting combination of limitations is neither taught nor suggested by the cited art, either individually or in combination. In this respect, it is further noted that several rejections rely on Official Notice. While many instances of relying on Official Notice are believed to be moot in light of the amendments to the claims, all such instances are respectfully traversed and a showing of documentary proof requested. MPEP 2144.03. In particular, the taking of Official Notice of each of the following is traversed because no evidentiary support has been provided for the statements, either in the form of a documentary reference or in the form of an affidavit or declaration specifying facts to support the Examiner's personal knowledge: (1) that it is old and well known in the collection arts to electronically transfer money to a lender after the collection has been made; and (2) that it is old and well known in the collection arts to request continuing guidance regarding delinquent accounts to ensure that the lender's requirements are met.

Conclusion

In view of the foregoing, Applicants believe all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Application No. 10/676,717
Amendment dated June 3, 2005
Reply to Office Action of March 4, 2005

PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

Date: 2005 June 3


Patrick M. Boucher
Reg. No. 44,037

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834
Tel: 303-571-4000
Fax: 303-571-4321
PMB/nlm
60442836 v1